



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,837	06/27/2003	Thomas M. Hayes	14416	8461
25763	7590	04/24/2006	EXAMINER	
DORSEY & WHITNEY LLP INTELLECTUAL PROPERTY DEPARTMENT 50 SOUTH SIXTH STREET MINNEAPOLIS, MN 55402-1498			SAYALA, CHHAYA D	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,837

Applicant(s)

HAYES ET AL

Examiner

C. SAYALA

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/14/05, 10/4/04, 6/27/03.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites in its preamble a method of improving belly firmness; however the steps that follow step 1, recite steps that include making bacon slices, rendering this claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Livingston (US Patent 6033176) and Johnston (US Patent 5498434) in view of the specification at page 1, paragraph [002] and Cook (US Patent 5851572) and further in view of Evans et al. (US Patent 5427802) and Schaub (US Patent 5215766).

Livingston teaches animal feeds that contain poultry fat (see abstract). Johnston also teaches that fat containing animal feeds and teaches use of poultry fat (see col. 2, line 51). Both references do not teach hydrogenating fats. Schaub teaches hydrogenating fats. Schaub teaches that high fat feeds or rations, used in animal feeds, provide energy needs of animals, and includes fats such as lard, tallow etc. The patentee teaches that when non-hydrogenated fats of high natural melting point are used, they are not hydrogenated. However, if the fats are of a low melting point variety, they are hydrogenated (i.e. have melting point lower than the body temperature of the animal being fed). Using such hydrogenated fat is said to improve the quality and quality of the feed (see col. 5).

It is known in prior art that the firmness of pork belly is obtained by providing saturated fats in the diet of a pig (see page 1 of specification that discusses what is known in prior art). See also col.1, lines 34-35 in Cook. In fact, Evans et al. teach that to improve carcass firmness and quality, feeding highly saturated fats to animals is beneficial. The patentees teach that the highly saturated fats should have an iodine value in the range 5-35. Finishing pigs fed saturated fats in feed ration even for the last 3 weeks of the cycle resulted in acceptable levels of carcass firmness.

Based on the combination of the above references, it would have been obvious to hydrogenate even poultry fat, before feeding it to finishing swine since the primary references teach using poultry fat in animal feed and Evans et al in particular teach that finishing pigs benefited in carcass quality and firmness by being fed hydrogenated fats. As for the claimed iodine value, Evans et al teach that too, and to optimize such values

Art Unit: 1761

would be within the realm of the artisan, since it is known that the iodine value is a means to measure the degree of saturation required and that the lower iodine value, the higher the hydrogenation. Furthermore, to mix in tallow, a known saturated fat and already used in animal feeds (Schaub), that contain grain (see Schaub, col. 4), would have been obvious to one of ordinary skill in the art, because to combine 2 ingredients known for their use for the same purpose is prima facie obvious. Claim 1 limitations/steps of slaughtering, injecting the pork belly, pressing the pork belly and slicing are all typical steps known in the art, as discussed on page 1 of the specification, which admits that these are typical process steps (see line 9).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 1761

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'C. Sayala', with a stylized, cursive script.

C. SAYALA
Primary Examiner
Group 1700.